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GANGYOU WANG, ALAN LI, and RF BIOTECH LLC

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

QUINTARA BIOSCIENCES, INC., a  
California corporation,  
Plaintiff,  
vs.

Case No.: 3:20-cv-04808-WHA

[Assigned to Hon. Judge William Alsup]

RUIFENG BIZTECH INC., a California  
corporation, GANGYOU WANG, an  
individual, ALEX WONG, an individual,  
ALAN LI, an individual, RUI SHAO, an  
individual, and RF BIOTECH LLC, a  
California limited liability company,  
Defendants.

Undersigned counsel's Motion for leave to  
bypass the vaccination order of this Court  
for the jury trial tentatively scheduled for  
February 14, 2022

RUIFENG BIZTECH INC., a California  
corporation and GANGYOU WANG, an  
individual;

Counter-Claimants,

vs.

QUINTARA BIOSCIENCES, INC., a  
California corporation, RICHARD  
SHAN, an individual and XUELING  
ZHAO, an individual;

Counter-Defendants.

MEMORANDUM OF POINTS & AUTHORITIES

I. MASK MANDATES AND SOCIAL-DISTANCING COVID-19 PROTOCOL REMAIN ADEQUATE PREVENTATIVE MEASURES TO CURB THE SPREAD OF THE VIRUS IN THE COURTROOM

The COVID-19 virus spreads via airborne transmission. In public health, social distancing, also called physical distancing, is a set of non-pharmaceutical interventions or measures intended to prevent the spread of a contagious disease by maintaining a physical distance between people and reducing the number of times people come into close contact with each other. It usually involves keeping a certain distance from others and avoiding gathering together in large groups.

Undersigned counsel believes in her words that the water vapor, droplets, and spittoons from the mouth and nose cavities of a COVID-19 infected individual are best prevented via effective mask wearing, more than one is the ideal for preventing inhalation of infected viruses in the air, and exhalation of infected air and liquid from the infected person's body. Thus, ventilation and masks – in addition to near-to-complete isolation – are most effective than those individuals who only get vaccinated and roam freely about in holiday gatherings and crowded public places.

II. THE NORTHERN DISTRICT OF CALIFORNIA'S ORDERS MANDATES MASK, AND SOCIAL-DISTANCING REQUIREMENTS IN THE FEDERAL COURT BUILDING

The vaccination requirement is this Court's arbitrary and discretionary order when other completely efficacious alternatives exist to protect individuals and living beings from the COVID-19 virus, and its variant, OMICRON. The Northern District as of Thursday required that those in common areas of courthouses, like lobbies, jury assembly rooms and hallways, wear face coverings and socially distance.<sup>1</sup> For example, on the Court's website, General Order No. 78, states, "All courthouse visitors must follow any safety protocols announced on the Court's website at [cand.uscourts.gov](http://cand.uscourts.gov) and in each judge's courtroom."

The Order further states, "Courtroom capacity may be limited as determined by the assigned judge. Press and public access to in-courtroom proceedings may be in person, by telephone, by videoconference, or by other remote means, as permitted and as determined by the assigned judge. Civil Cases: 1. Trials may proceed in accordance with the logistical considerations necessitated by the Court's safety protocols. 2. Each judge will determine whether to hold a hearing or decide a civil matter on the papers. Hearings may be held in person in the courtroom, by telephone, or by videoconference. This applies to motion hearings, case management conferences, pretrial conferences, settlement conferences, and Alternative Dispute Resolution ("ADR") proceedings. For

1 specific instructions on telephone or video appearances, see the docket on PACER, the assigned  
2 judge's schedule of 2 upcoming proceedings (located on each judge's web page at  
3 cand.uscourts.gov/judges), or the ADR webpage."

4 Thus, following above protocols within the Judge's courtroom for the trial is more than  
5 efficacious to prevent the spread of the COVID-19 virus, and any mutation viruses. Moreover,  
6 several courts in California, and around the country, have instituted the optional remote jury trial  
7 protocol for state and federal courts to follow.

### 8 III. COVID-19 VACCINES AND BOOSTERS NOT AN INFALLIBLE METHOD OF 9 PREVENTION

10 Current vaccines and boosters are expected to protect against severe illness,  
11 hospitalizations, and deaths due to infection with the Omicron variant. However, breakthrough  
12 infections in people who are fully vaccinated are likely to occur. This illustrates that the vaccinations  
13 pumped out in masses do not remain a hundred-percent (100%) efficacious method to prevent the  
14 spread of the COVID-19 virus, and its mutants. The best way is self-isolation, 20-feet social-  
15 distancing, and the K-N-95 mask-wearing. For example, undersigned counsel wears between 2-3  
16 masks, if and when, she is in a public place. Several studies that undersigned counsel has consulted  
17 and read state that two (non-K-N-95) masks provide seventy-five percent (75%) protection, whereas  
18 three (non-K-N-95) masks are known to protect an individual ninety-nine percent (99%) from the  
19 COVID-19 virus. Even more specifically, a New York City ER doctor, Dr. Craig Spencer informed  
20 how the boosted, vaxxed, and unvaccinated all remain at risk from contracting the new Omicron  
21 mutant virus of COVID-19. The omicron strain of COVID-19 affects people differently depending on  
22 the vaccine they got and their vaccinated status, according to a well-known New York City doctor. A  
23 Los Angeles County local hospital nurse observed vaccinated individuals contracting the COVID-19  
24 Omicron virus at a surge with debilitating symptoms.

25 The World Health Organization (WHO) warns new Covid variants could emerge that are  
26 fully resistant to vaccines could emerge as the global viral phenomenon surges. WHO Director-  
27 General Tedros Adhanom Ghebreyesus stated, "it's possible that new variants could evade our  
28 countermeasures and become fully resistant to current vaccines or past infection, necessitating  
vaccine adaptations." Thus, the vaccines are not fully efficacious against COVID's new variant,  
OMICRON, and future variants.

No plausible reason was put forth in the Order of this Court why only wearing layers of  
K-N-95 masks, and maintaining the twenty-feet (20-feet) social-distancing in the courtroom, cannot  
work to maintain a health and safe trial environment during this virus. In effect, with this Court's

1 interest in technology, and technical civil matters, a remote jury trial is the best remedy for this  
2 unknown virus mutating as DELTA, and now, OMICRON.

3 IV. EXAMPLES WHERE SEVERAL VACCINATED INDIVIDUALS CONTRACTED  
4 COVID-19 OMICRON VARIANT: B.1.1.529

5 In a study testing vaccination and transmissibility, researchers, published in the open-  
6 access journal Eurosurveillance, interviewed 111 out of 117 attendees at a Christmas event in Oslo,  
7 Norway. Among those who participated in the interviews, the median age was 38, 43% were women,  
8 and 89% had received two doses of an mRNA vaccine.<sup>ii</sup>

9 Of the participants, 66 had confirmed cases of COVID-19 and 15 had probable cases.  
10 Most of the infected were fully vaccinated; however, none of the attendees reported having a booster  
11 shot. They also had negative tests taken within one to two days of the event.

12 “The total attack rate for the Omicron variant was 74%,” according to the study,  
13 consistent with other research showing that omicron is likely more transmissible than earlier variants  
14 and that vaccines are less effective in preventing its spread. Moreover, California’s reported average  
15 daily coronavirus caseload has more than quadrupled in the last two weeks.

16 All this points to either a remote jury-trial, or having in place preventative measures such  
17 as mask mandates and social-distancing between individuals in the courthouse.

18 V. THE FIRST-AMENDMENT CONSTITUTIONAL RIGHT - NOT TO INJECT  
19 UNWARRANTED AND UNPROVEN VACCINES IN HUMAN BODY – MUST BE ADHERED  
20 TO.

21 The vaccines are only a fool-hardy method of big businesses, and big pharma to make the  
22 big bucks in administering COVID-19 vaccinations and viruses. Undersigned counsel will not  
23 become a guinea pig for big pharma’s extended lab tests with unproven scientific basis of prevention  
24 of COVID-19 virus. The “it is less likely to occur” rhetoric is not that individuals, such as  
25 undersigned counsel, will never contract the virus even if vaccinated. Whether it is Johnson&Johnson  
26 Moderna double vaccine, or Pfizer’s single shot, several individuals in California and in the United  
27 States have continued to contract COVID-19 fatal virus. This is because more important than the  
28 vaccination is maintaining the social-distance protocols of not only six (6) feet, but twenty (20) feet  
as most scientific experts have stated in preventing spittoon from the mouth and nasal cavities from  
entering another living being. Only when the vaccinations become a hundred-percent effective such  
as the polio, and small-pox vaccines, will the undersigned counsel imbibe such unknown chemicals  
in her body. Undersigned counsel barely takes any kind of medication – even pain-killers – thus,

1 counsel will not follow any public-hype mentality yet – even if it seems the most wise course of  
2 action to undertake.

3 The undersigned counsel takes more than the required preventative measures in wearing  
4 three (3) masks in public places, and in enclosed buildings. Ventilating any vehicles while driving  
5 from time-to-time. In fact, undersigned counsel remains in isolation with minimum contact with  
6 individuals. Except for all vaccinated members of her family, undersigned counsel is following all  
7 CDC, and California Health Department guidelines. She shops online, and if she takes UBERs, opens  
8 all windows for fresh air. She covers her nose and mouth at all times when any unknown, and/or  
9 unvaccinated individual is in her vicinity. She checks with any individuals she interacts with whether  
10 they were vaccinated.

11 There is no reason why undersigned counsel should not be allowed to participate in in-  
12 person trials for this matter. Even then, some California courts have updated their orders and code for  
13 remote civil jury trials at the state and the federal court level. This Court must adhere to the  
14 guidelines of an ever-changing world where COVID-19, and remote appearances, hearings, and trials  
15 remain a norm.

16 In 2021, undersigned counsel had her first trial in unlawful detainer for two hours via  
17 Zoom with presentation of evidence, direct, and cross-examination all conducted. Ms. Kamath also  
18 had her second trial at Stanley Mosk Courthouse with only mask-mandate requirements in-person.  
19 Remote jury trial protocols were instituted in other courts such as the Superior Court of California-  
20 Riverside County via Zoom, and Cisco-WebEx.

### 21 CONCLUSION

22 Undersigned counsel thus requests leave of this Court to be present whether in-person, or  
23 via virtual presence, for the jury trial of the above-named Defendants with all COVID-19 mask-  
24 mandates, and social-distancing protocols, except discretionary vaccination-mandates of this Court.

25 ///

26 DATED: January 3, 2022

27 RESHMA KAMATH

28 *Reshma Kamath*

Reshma Kamath

Counsel for Defendants RUIFENG BIZTECH

INC., GANGYOU WANG, ALAN LI, AND RF

BIOTECH LLC

<sup>i</sup> Update on Court Proceedings, Operations, and Safety Protocols (updated August 2, 2021) | United States District Court, Northern District of California (uscourts.gov)

<sup>ii</sup> <https://www.eurosurveillance.org/content/10.2807/1560-7917.ES.2021.26.50.2101147#f1>